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| APPLICATION NO.                                                                                           | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/938,978                                                                                                | 08/24/2001  | Alan N. Willson JR.  | G&C 31006.2-US-U1   | 2152             |
| 22462                                                                                                     | 7590        | 08/10/2006           | EXAMINER            |                  |
| GATES & COOPER LLP<br>HOWARD HUGHES CENTER<br>6701 CENTER DRIVE WEST, SUITE 1050<br>LOS ANGELES, CA 90045 |             |                      |                     | NGO, CHUONG D    |
|                                                                                                           |             |                      | ART UNIT            | PAPER NUMBER     |
|                                                                                                           |             |                      | 2193                |                  |

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|------------------------------|------------------------|---------------------|
|                              | 09/938,978             | WILLSON ET AL.      |
| <b>Examiner</b>              | <b>Art Unit</b>        |                     |
| Chuong D. Ngo                | 2193                   |                     |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 11 July 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-3,6-14,16-18,20-29,31-33,35-39,41-45 and 47-53 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1-3,6-14,16-18,20-29,31,32,37-39,41-44 and 49-51 is/are allowed.

6)  Claim(s) 33-36,45,47,48,52 and 53 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## **DETAILED ACTION**

1. The amendment filed on 07/11/2006 have been entered. Claims 1-3,6-14,16-18,20-29,31-33,35-39,41-45 and 47-53 are pending.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 33, 34-36, 45, 47-48, 52 and 53 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

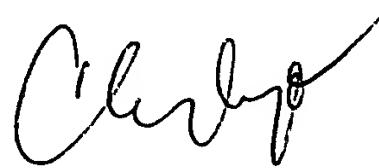
Claims 33-36, 45-48, 52 and 53 are directed to a computer related method of computation that produces a result merely a number. In order for a claimed invention that is directed to such a computer implemented method to be statutory, the claimed invention must accomplish a practical application. That is the claimed invention must transform an article or physical object to a different state or thing, or produce a useful, concrete and tangible result. State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. Also see "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility", OG Notices: 22 November 2005. It is clear from the claims that the method does not transform an article or physical object to a different state or thing. The input are numbers and the output is also a number. Further, the claimed method does not produce a real-world result since the final result is a mere number without a practical application recited in the claims that make the result useful, concrete and tangible. Therefore, the claimed invention is directed to non-statutory subject matter as the

claims fail to assert a practical application to the method.

4. Claims 1-3,6-14,16-18,20-29,31,32,37-39,41-44 and 49-51 are allowed.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong D. Ngo whose telephone number is (571) 272-3731. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Chuong D Ngo  
Primary Examiner  
Art Unit 2193